

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Adopted Rules

■ GUN DEALER LICENSING

The ILLINOIS STATE POLICE adopted a new Part titled Firearm Dealer License Certification Act (20 IAC 1232; 44 Ill Reg 2446), effective 7/8/20, implementing Public Act 100-1178, which requires all Illinois holders of a Federal Firearms License (FFL) to additionally receive certification from the State in order to sell, lease or otherwise transfer firearms. This new Part replaces an emergency rule that expired 5/31/20 (44 Ill Reg 1681).

Clarifications

The new Part includes new and revised definitions (some of which have been further revised since 1st Notice) clarifying who is considered to be engaged in the business of dealing, selling, leasing, or otherwise transferring firearms with the principal objective of livelihood and profit, which makes them subject to the

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

Act and this Part. Entities excluded from this definition and NOT subject to these rules include:

- gunsmiths who merely service or repair firearms and return them to the customer;
- collectors of firearms as curios or relics;
- firearms manufacturers or importers who do not sell, lease or

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Proposed Rulemakings

REMOTE LEARNING

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 44 Ill Reg 12073) implementing Public Act 101-643. This rulemaking waives certain requirements normally in effect and establishes education protocols to be observed when the Governor declares a disaster due to a public health emergency, and will replace emergency rules that were effective 3/27/20 (44 Ill Reg 5905) and 5/1/20 (44 Ill Reg 8382). The amendments authorize the State Superintendent, on a single district, multiple district, regional or statewide basis, to mandate use of remote learning days (entirely remote instruction), or blended remote learning days (combination of in-person and remote instruction). Once declared, remote

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

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transfer them at wholesale or retail to individual purchasers;

- pawnshops that acquire firearms only for bailment; and
- persons/entities engaging only in transactions not subject to a State or federal background check.

A “principal objective of livelihood and profit” means that the person engages in the sale/transfer of firearms as an income-generating business. It does not include persons whose primary objective is to improve or liquidate a personal collection, nor does it include persons who regularly purchase and dispose of firearms for criminal purposes.

Applications

Every FFL licensee shall file with ISP a copy of its FFL, along with a sworn affidavit indicating that the license is currently valid and belongs to the licensee. This State certification must be renewed every 3 years when the FFL is renewed. ISP may, in lieu of requiring an affidavit, verify the validity of an FFL via any authentication system or website approved by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Applicants for certification must also submit an affidavit listing the name and Firearm Owner’s Identification Card (FOID) number of each owner, employee, or other agent who sells or transfers firearms for the licensee and attesting that each of these persons is at least 21 years old, holds a currently valid FOID card and (if a certification is being renewed) has completed the

training required by the Firearm Dealer License Certification Act.

Fees

For FFL licensees without a retail location, the application fee is \$300 for initial certification and \$100 for a renewal certification. For licensees with retail locations, the application fee is \$1,200 for initial certification and \$500 for renewal. Total fees for certification of multiple licenses (e.g., retail stores at different locations) cannot exceed \$40,000. Initial certification fees for new applicants who held current FFL licenses as of 1/18/19 shall be prorated based on the number of months remaining on the applicant’s current FFL. Overpayments will be credited toward the cost of the licensee’s next renewal, or may be refunded to the licensee upon written request.

Inspections

All certified licensees (CLs) shall allow inspection of their place of business by ISP and other law enforcement agencies during all hours of operation when firearms are sold, leased or transferred. All records, documents and firearms shall be made accessible upon request of ISP or the LE agency. No more than one unannounced inspection may be conducted per year without good cause (examples of good cause have been added since 1st Notice). A CL that is not open to the public, does not keep regular business hours or operates by appointment only shall advise ISP in writing of its hours of operation.

Investigations

ISP may initiate an investigation into a licensee when requested by a local, State or federal law enforcement agency or prompted by a citizen complaint submitted through ISP’s website. Licensees must respond within 24 hours to any request for information made by ISP to determine the disposition of one or more firearms as part of a criminal investigation. Certified licensees may continue to operate during the course of an investigation or hearing unless the ISP Director determines that the public interest, safety or welfare requires emergency action.

Security

No later than 1/2/20, CLs that maintain an inventory of firearms for sale or transfer must be connected to an alarm system or service that notifies local law enforcement of any unauthorized intrusion. This system must include interior motion detection, glass breakage detection, and the ability to detect any failure in the alarm system (these criteria have been changed since 1st Notice). By 1/2/21, all CLs operating retail locations must have a video surveillance system in place. This system must monitor all entrances and exits and any inside areas where firearms are stored, handled, sold or transferred. Video surveillance records and sound recordings obtained from them must be retained for at least 90 days.

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Emergency Rules

■ UNEMPLOYMENT CLAIMS

The DEPARTMENT OF EMPLOYMENT SECURITY adopted emergency amendments to the Parts titled Claims, Adjudication, Appeals and Hearings (56 IAC 2720; 44 Ill Reg 12656), Administrative Hearings and Appeals (56 IAC 2725; 44 Ill Reg 12666) and Academic Personnel (56 IAC 2915; 44 Ill Reg 12671) all effective 7/10/20 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 44 Ill Reg 12052, 12055 and 12058. The amendments to Part 2720 and 2915 implement Unemployment Insurance Act provisions allowing non-professional employees of educational institutions to claim benefits for unemployment between or within terms for weeks beginning 3/15/20 and ending 1/2/21. The Part 2720 amendments require educational institutions or agencies that are contesting unemployment claims filed by academic personnel for that period to file a form alleging that the individuals named were

employed in an instructional, research, or principal administrative capacity (which would disqualify them from claiming unemployment between terms or during temporary interruptions in the academic year) during the 2019-20 academic year; that they were employed as of 3/1/20; and that they have a contract to work, or reasonable assurance that they will continue working, for the same employer in the 2020-21 academic year. Amendments to Part 2915 clarify when academic employees' services are considered to be performed in an instructional, research or principal administrative capacity (e.g., teachers, principals, guidance counselors, coaches) and when they are not (e.g., teacher's aides, clerical, custodians, or librarians). The amendment to Part 2725 clarifies when an employer may apply to revise the amount due for benefits paid for weeks beginning 3/15/20 and ending 1/2/21. Employees of schools, colleges and universities who have recently filed for unemployment benefits may be affected.

Questions/requests for copies/ comments on the 3 proposed DES rulemakings through 9/8/20: Kevin Lovellette, DES, 33 S. State St., Room 930, Chicago IL 60603, 312/793-1224, fax 312/ 7 9 3 - 5 6 4 5 , kevin.lovellette@illinois.gov

DHR PROCEEDINGS

The DEPARTMENT OF HUMAN RIGHTS adopted emergency amendments to the Part titled Procedures of the Department of Human Rights (56 IAC 2520; 44 Ill Reg 12676) effective 7/10/20 for a maximum of 150 days. The emergency amendment allows documents filed with or served by DHR, including complaints of civil rights violations, to be filed electronically. The signature of a complainant may be verified by certification rather than being notarized in person.

Questions/requests for copies: Mary M. (Betsey) Madden, DHR, 100 W. Randolph St., Suite 10-100, Chicago IL 60601, 312/814-3386, TTY 866/740-3953.

Proposed Rulemakings

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or blended remote learning days will be counted as pupil attendance days under the School Code. Requirements for remote/blended learning days may be met by implementation of a previously approved e-learning program. Districts that do not implement e-learning programs must draft and

adopt a remote/blended learning program approved by the district superintendent. Up to 5 planning days (counted as pupil attendance days) may be used to develop, review or amend the program, which must be accessible to all district students; provide means to take attendance, verify student participation, and allow students to confer with educators as

necessary; address the needs of special populations (e.g., special education students, homeless students); and provide for a transition back to on-site instruction when the emergency ends. Regarding teacher evaluations, teachers under contractual continued service who

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Adopted Rules

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Records

CLs operating retail locations on or after 1/2/20 must use electronic-based recordkeeping for all acquisition and disposition records currently required by federal law. The recordkeeping system must be searchable by the name of the purchaser, manufacturer or importer; the address of the purchaser; the serial number of the firearm; the acquisition date of the firearm; or the ATF transaction serial number. This system must also track any changes to original entries and be stored on a server or physical storage device that belongs to the licensee, or at a host facility (e.g., cloud storage or remote server) based in the U.S. and subject to U.S. law. Retail sales and purchases must be recorded within 24 hours after the transaction. Shipments from manufacturers or wholesalers must be recorded within the earlier of 24 hours after unpacking or 5 business days after shipping. Inventory, acquisition and disposition records must be made available to ISP or local law enforcement upon request. An alternate form of recordkeeping may be used with ISP approval if good cause is shown and the records can be uploaded in a PDF format.

Storage

CLs with retail locations must develop and submit to ISP (using a form and method provided on the Department's website) their

written plans for safe storage of firearms and ammunition during retail hours, after closing, and in the event of a disaster. All inventoried firearms must be kept in a secure gun storage or safety device (e.g., safe, vault, secured room or locked display) and in a location accessible only to specifically authorized personnel. Keys, lock combinations, passwords or other security measures must be accessible only to specifically authorized personnel and ammunition must be stored securely out of the reach of customers. Any loss, theft or diversion of inventoried firearms from a retail location must be reported to ATF and local law enforcement within 48 hours and a copy of the notification must be submitted to ISP.

Signage

Each location where a CL conducts business must post two signs (templates are provided in the rule and at ISP's website). One sign must notify patrons that the premises are under video surveillance and that their images may be recorded. The other sign must advise patrons that storing or leaving unsecured firearms where children can access them, selling or transferring firearms to someone else without approval from ISP, and failing to report the loss or theft of a firearm to local law enforcement within 72 hours are unlawful.

Training

Every CL and employees who sell or transfer firearms must complete

ISP-approved training (at a minimum, covering materials made available via the ISP website or other means) prior to certification and annually thereafter. Newly hired employees must complete this training before selling or transferring any firearms or ammunition. The CL must submit an affidavit to ISP verifying that the licensee and any applicable employees have completed this training.

Penalties and Appeals

Disciplinary actions for any violation of the Act or this Part may include suspension or revocation of license certification, refusal to renew or restore a certification, or a reprimand. Additionally, a fine may be imposed based on the seriousness and frequency of the violation. Fines range from a maximum of \$200 for a first-time petty violation up to \$10,000 per offense for repeated major violations. Procedures for notifying CLs of violations and for CLs to request hearings or appeals are included in the Part.

Those affected by this rulemaking include individuals, businesses and non-profits licensed to sell, lease or transfer firearms and local law enforcement entities.

Questions/requests for copies: Yvette C. Loizon, ISP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217/782-7658.

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Proposed Rulemakings

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did not receive an evaluation at the normal time and whose most recent rating was “excellent” will maintain that rating, while teachers not under contract will default to a rating of “proficient”, unless a written collective bargaining contract provides otherwise. Other provisions suspend requirements and deadlines for certain student assessments, remediation plans for teachers that have received unsatisfactory evaluations, and school board leadership training.

TEACHER PREPARATION

SBE also proposed amendments to Educator Licensure (23 IAC 25; 44 Ill Reg 12106) implementing Public Act 101-643. This rulemaking will replace emergency rules effective 4/27/20 (44 Ill Reg 8013). During a public health emergency declared by the Governor, candidates for educator licensure enrolled in an educator preparation course at that time are not required to complete the teacher performance assessment or maintain a grade average of C minus or higher. They can also begin student teaching or an alternative educator preparation program before passing the required content area test and complete student teaching, internships, and other supervised experience remotely.

PRESCHOOLS

SBE proposed amendments to the Part titled Early Childhood Block Grant (23 IAC 235; 44 Ill Reg

12141) that will replace emergency amendments effective 3/27/20 (44 Ill Reg 5924). During a public health emergency, this rulemaking allows programs currently funded by the Early Childhood Block Grant that are serving children of essential workers to use any excess funds to provide at-home materials for children and to purchase supplies and equipment. Block grant funding may also be used to pay existing full-time and part-time staff and to increase working hours of part-time staff. Programs must comply with the day care center requirements of the Department of Children and Family Services (89 IAC 407).

Questions/requests for copies/ comments on the 3 SBE rulemakings through 9/8/20: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

LABOR PROCEEDINGS

The ILLINOIS LABOR RELATIONS BOARD proposed amendments to General Procedures (80 IAC 1200; 44 Ill Reg 12061) and Unfair Labor Practice Proceedings (80 IAC 1220; 44 Ill Reg 12068). Companion emergency amendments, both effective 7/6/20 for a maximum of 150 days, appeared in last week’s *Illinois Register* at 44 Ill Reg 11866 and 11873. These proposed rules expand the use of e-mail to file and to serve documents in ILRB proceedings. Documents that will be served by e-mail include

complaints, unfair labor practice charges, notices of hearing, dismissals, hearing orders, recommended decisions and orders, and Board decisions and orders. Any attorney representing a party to an ILRB proceeding shall provide the Board with an e-mail address to which documents can be served. Documents with information that could be deemed personal, proprietary, or confidential will not be served by e-mail. Attorneys and others who take part in ILRB proceedings are affected.

Questions/requests for copies/ comments on the 2 ILRB rulemakings through 9/8/20: Anna Hamburg-Gal, ILRB, 160 N. La Salle St., Suite 400, Chicago IL 60601, 312/793-6380, anna.hamburg-gal@illinois.gov

CPA EXAMS

The ILLINOIS BOARD OF EXAMINERS proposed amendments to Certificate of Education and Examination Requirements (23 IAC 1400; 44 Ill Reg 12013) that update requirements for Board meetings and also update educational and examination requirements for Certified Public Accountants to reflect requirements in effect since 1/1/19. Persons who have taken or are preparing to take the BOE’s CPA exam are affected.

Questions/requests for copies/ comments through 9/8/20: Russ Friedewald, IBOE, 1120 E. Diehl Rd., Suite 107, Naperville IL 60563, 815/753-8900.

Adopted Rules

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■ HOSPICE FACILITIES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to the Part titled Hospice Programs (77 IAC 280; 43 Ill Reg 11908), effective 7/2/20, implementing Public Act 100-744. The Act and the rulemaking allow residential hospice facilities to serve 20 (currently, 16) persons per location and increase the total number of DPH-licensed hospice residences from 12 to 15. The rulemaking also implements updated federal requirements for compliance with National Fire Protection Association life-safety codes; requires compliance with the Alzheimer's Disease and Related Dementias Services Act [410 ILCS 406] and its associated DPH rules (77 IAC 973); and clarifies the licensing process when a facility is sold or its ownership is transferred or substantially changed. Residential hospice programs are affected by this rulemaking.

Questions/requests for copies: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL

62761, 217/785-9212,
dph.rules@illinois.gov

DRIVER'S LICENSES

The SECRETARY OF STATE adopted an amendment to Issuance of Licenses (92 IAC 1030; 44 Ill Reg 5346) effective 7/7/20, replacing an emergency amendment effective 3/16/20 (44 Ill Reg 5476). This rulemaking (filed in response to a federal court case) modifies SOS restrictions regarding religious head coverings and driver's license photos. A license holder or applicant may wear a religious head covering for a driver's license photograph if the head covering does not cover any area of the open face. The driver must also sign a declaration that his or her sincerely held religious belief requires the head covering to be worn in public, that this covering is not removed in public unless necessary, and that it is not removed as a matter of courtesy or protocol, such as when in court. (Previously, religious head coverings were allowed if the driver attested that the covering could be removed only under circumstances that required its

physical removal, such as a medical examination or visit to a barber/hair dresser.)

Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, pwright@ilsos.gov

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Pay Plan (80 IAC 310; 44 Ill Reg 4757), effective 7/13/20, making the Pay Plan generally applicable for Fiscal Year 2021; updating merit compensation system salary range tables; adding new position titles and removing obsolete titles; making technical cleanups and revisions to various Sections and Tables affected by recent peremptory rules; and updating the effective date for the list of divided classes (positions represented by more than one bargaining unit) to 2/25/20.

Questions/requests for copies: Lisa Fendrich, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7976, fax 217/524-4570, CMS.PayPlan@illinois.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the August 11, 2020 JCAR meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF HUMAN SERVICES

Related Program Provisions (89 IAC 117; 44 Ill Reg 5993) proposed 4/17/20

SECRETARY OF STATE

Business Corporation Act (14 IAC 150; 44 Ill Reg 5710) proposed 4/3/20

General Not For Profit Corporations (14 IAC 160; 44 Ill Reg 5712) proposed 4/3/20

Uniform Partnership Act (2001) (14 IAC 171; 44 Ill Reg 5716) proposed 4/3/20

Limited Liability Company Act (14 IAC 178; 44 Ill Reg 5718) proposed 4/3/20

Procedures and Standards (92 IAC 1001; 44 Ill Reg 2246) proposed 1/31/20

Cancellation, Revocation or Suspension of Licenses or Permits (92 IAC 1040; 44 Ill Reg 2324) proposed 1/31/20

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*

Representative Tom Demmer

Senator John F. Curran

Representative Michael Halpin

Senator Kimberly Lightford

Representative Frances Ann Hurley

Senator Tony Muñoz

Representative Steven Reick

Senator Sue Rezin

Representative André Thapedi

Senator Paul Schimpf

Representative Keith Wheeler, *co-chair*

**Vicki Thomas
Executive Director**